IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Second Appeal no. 1500 of 2005
with
Civil Application no.2133 of 2005.

Devram Laxman Bagul ..Appellant

vs.

Smt.Sitabai Dada Bagul
(deceased) and others ..Respondents

Smt.Namita Hemrajani for appellant.

CORAM: S.C.DHARMADHIKARI J
5th September,2007

P.C.

1. Heard the learned Counsel appearing for the appellant.

2. Perused the concurrent findings of fact recorded by the Courts below to the effect that during the life time of the predecessor in title of the present appellant, a partition had taken place and the lands were being cultivated independently. The lands bearing Old Survey nos.88 and 89/1 have come to the share of the predecessor in title of the appellant/original plaintiff and that is evidenced by 7/12 extracts (Exhibits 40, 41 and 43). It is clear from the same that even the present appellant who claim through their predecessor Mauru have sold survey no.89/1 to one

Pandu Diva Raut on 8th May, 1953. The Courts were right in concluding that all this was not possible unless partition had taken place and lands were belonging to the predecessor in title so also other brothers claiming through the common ancestral Chima. In this view of the matter thesuit lands have also held to be the ownership of the respondent/defendant.

3. These concurrent findings of fact which are based upon oral and documentary evidence. There is no substantial questions of law involved. Hence, second appeal is dismissed.

4. In view of dismissal of the second appeal, civil application does not survive and is disposed of accordingly.

(S.C.DHARMADHIKARI J.)